

ESTTA Tracking number: **ESTTA395751**

Filing date: **03/01/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Royal Oak Enterprises, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	1 Royal Oak Avenue Roswell, GA 30076 UNITED STATES		

Attorney information	N. Andrew Crain Thomas, Kayden, Horstemeyer & Risley, LLP 600 Galleria Parkway, SE Suite 1500 Atlanta, GA 30339 UNITED STATES trademarks@tkhr.com, chuck.murray@tkhr.com, carla.stone@tkhr.com, andrew.crain@tkhr.com, natalie.bennett@tkhr.com Phone:770-933-9500		
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Registrations Subject to Cancellation

Registration No	3925901	Registration date	03/01/2011
Registrant	Nature's Grilling Products LLC 10855 Dover Street Suite 400 Westminster, CO 80021 UNITED STATES		

Goods/Services Subject to Cancellation

Class 004. First Use: 2007/10/17 First Use In Commerce: 2008/02/21
All goods and services in the class are cancelled, namely: Charcoal briquettes

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	3221991	Registration date	03/27/2007
Registrant	NRG International, LLC Suite 2 706 Front St. Louisville, CO 80027 UNITED STATES		

Goods/Services Subject to Cancellation

Class 004. First Use: 2004/11/01 First Use In Commerce: 2005/04/01
All goods and services in the class are cancelled, namely: Charcoal; Wood chips for smoking and grilling

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Related Proceedings	Royal Oak Enterprises, LLC v. Nature's Grilling Products, LLC, Civil Action No. 1:10-CV-02494-JEC, United States District Court for the Northern District of Georgia
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	1450298	Application Date	12/03/1986
Registration Date	08/04/1987	Foreign Priority Date	NONE
Word Mark	NATURE-GLO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 004. First use: First Use: 1985/01/00 First Use In Commerce: 1985/02/00 CHARCOAL BRIQUETS,[WOOD BRIQUETS,] WOOD CHIPS, GRILL WOOD AND FIRE STARTING FIBERBOARD		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	NATURE-GLO		
Goods/Services	Charcoal briquets, wood chips, grill wood and fire starting fiberboard		

Attachments	01315241.PDF (10 pages)(263689 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/N. Andrew Crain/
Name	N. Andrew Crain
Date	03/01/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No.: 3,221,991
Mark: NATURE'S MESQUITE (& design)
Registered: March 27, 2007

In re Registration No. 3,925,901
Mark: NATURE'S GRILLING (& design)
Registered: March 1, 2011

ROYAL OAK ENTERPRISES, LLC)	
Petitioner,)	
v.)	Cancellation No. _____
NATURE'S GRILLING PRODUCTS LLC,)	
dba NRG INTERNATIONAL LLC)	
Registrant.)	

PETITION TO CANCEL

Petitioner, Royal Oak Enterprises, LLC ("Royal Oak" or "Petitioner"), a Delaware Limited Liability Company with an address of 1 Royal Oak Avenue, Roswell, Georgia 30076, believes that it is and will be damaged by the registration of the mark shown in Registration No. 3,221,991 ("the '991 Registration") and that it is and will be damaged by the registration of the mark shown in Registration No. 3,925,901 ("the '901 Registration"). Upon information and belief, both the '991 Registration and the '901 Registration are owned by Nature's Grilling Products LLC, dba NRG International LLC ("NGP" or "Registrant"). Petitioner hereby petitions the Trademark Office to cancel those registrations pursuant to the provisions of 15 U.S.C. § 1064.

Grounds for Cancellation:
Likelihood of Confusion under 15 U.S.C. § 1052(d)

1. Since at least as early as 1985, Petitioner, itself and through its predecessors in interest, has been engaged in the sale of charcoal briquets and other grilling products under the trademark NATURE-GLO (also referred to as “Petitioner’s mark”).

2. Petitioner is the owner by assignment of United States Trademark Registration 1,450,298, issued August 4, 1987, for the mark NATURE-GLO covering charcoal briquets, wood chips, grill wood and fire starting fiberboard (“Petitioner’s Registration”). Petitioner’s Registration is renewed and is valid, subsisting, and in full force and effect. A copy of the Petitioner’s Registration is attached as Exhibit A.

3. On or about March 12, 1993, Petitioner’s predecessor filed an affidavit of incontestability of right to use the NATURE-GLO mark pursuant to Section 15 of the Lanham Act, 15 U.S.C. §§ 1065. The United States Patent and Trademark Office acknowledged the Section 15 affidavit on June 18, 1993. As a result, Petitioner’s right to use the NATURE-GLO mark is incontestable.

4. On or about August 3, 2007, Petitioner’s predecessor filed a declaration of use and application for renewal of the ‘298 registration pursuant to Sections 8 and 9 of the Lanham Act, 15 U.S.C. §§ 1058 and 1059, respectively. Both the declaration and application for renewal were accepted by the Trademark Office on or about August 21, 2007.

5. Petitioner’s NATURE-GLO mark has been used in the promotion and sale of charcoal briquets and other grilling products in commerce extensively, continuously, and without interruption since 1985. By reason of Petitioner’s and its predecessors’ (hereafter, Petitioner and its predecessors in interest shall be collectively referred to as “Petitioner”) sales and promotional

activities over more than twenty-five years, the NATURE-GLO mark has come to identify and indicate the source of Petitioner's goods to the consuming public and to distinguish Petitioner's goods from those of others.

6. Petitioner's long, continuous and widespread sale, marketing, and advertising of grilling product under the NATURE-GLO mark have created in the minds of consumers an association between the NATURE-GLO mark and Petitioner's business and quality grilling products. Through its sales, marketing and advertising efforts and the quality of the products sold under Petitioner's mark, Petitioner has developed substantial and valuable goodwill in its NATURE-GLO mark, and the mark has become an asset of substantial value to Petitioner as a symbol of Petitioner and of the products sold under the mark.

7. Upon information and belief, Registrant was formed in 2004 to market and sell grilling products.

8. The '991 registration is for the mark NATURE'S MESQUITE (& design) and covers "[c]harcoal; [w]ood chips for smoking and grilling." The '991 registration issued on March 27, 2007, more than twenty years after Petitioner began using its NATURE-GLO mark in interstate commerce, and nearly twenty years after Petitioner registered its mark. The '991 registration claims a date of first use of November 11, 2004, nearly twenty years after Petitioner began using its NATURE-GLO mark in interstate commerce, and nearly twenty years after Petitioner registered its mark.

9. The '991 registration is less than five years old, and Registrant's right to use the NATURE'S MESQUITE mark is not incontestable.

10. Registrant has disclaimed the "MESQUITE" portion of the mark shown in the '991 registration, leaving "NATURE'S" as the dominant portion of the mark. That dominance is

reinforced by the placement of “NATURE’S” at the top of the mark. The highlighted “NATURE’S” portion of Registrant’s mark is confusingly similar to Petitioner’s NATURE-GLO mark in terms of appearance, connotation, and commercial impression. Consumers are likely to focus on the “NATURE’S” portion of Respondent’s mark, and thereby mistakenly associate it with Petitioner, Petitioner’s NATURE-GLO mark and/or the goods Petitioner sells under its NATURE-GLO mark.

11. The goods identified in the ‘991 registration are identical or closely related to the goods promoted and sold by Petitioner under its NATURE-GLO mark and to the goods identified in Petitioner’s Registration.

12. Use of Registrant’s NATURE’S MESQUITE mark for Registrant’s goods is likely to cause confusion or mistake, or to deceive consumers into believing erroneously that Registrant’s goods come from the same source as, are related to, or are associated with the goods offered by Petitioner, or are authorized by, sponsored by, or otherwise connected with Petitioner. Any fault or defect found in Registrant’s goods would reflect upon and injure the reputation that Petitioner has established in its NATURE-GLO mark and in the goods offered in connection therewith. Moreover, the use of the NATURE’S MESQUITE mark allows Respondent to reap the financial reputation-related reward associated with Petitioner’s mark and misappropriate to Registrant goodwill that belongs to Petitioner. Petitioner believes it is being injured in the provision, sale, and distribution of Registrant’s goods, and in the conduct of its business.

13. The ‘901 registration is for the mark NATURE’S GRILLING (& design) and covers “[c]harcoal briquettes.” The ‘901 registration issued on March 1, 2011, more than twenty-five years after Petitioner began using its NATURE-GLO mark in interstate commerce, and more than twenty years after Petitioner registered its mark. The ‘901 registration claims a

date of first use of October 17, 2007, more than twenty years after Petitioner began using its NATURE-GLO mark in interstate commerce, and more than twenty years after Petitioner registered its mark.

14. The '901 registration is less than five years old, and Registrant's right to use the NATURE'S GRILLING mark is not incontestable.

15. Registrant has disclaimed the "Grilling" portion of the mark shown in the '901 registration, leaving "NATURE'S" as the dominant portion of the mark. That dominance is reinforced by the placement of "NATURE'S" at the top of the mark. The highlighted "NATURE'S" portion of Registrant's mark is confusingly similar to Petitioner's NATURE-GLO mark in terms of appearance, connotation, and commercial impression. Consumers are likely to focus on the "NATURE'S" portion of Respondent's mark, and thereby mistakenly associate it with Petitioner, Petitioner's NATURE-GLO mark and/or the goods Petitioner sells under its NATURE-GLO mark.

16. The goods identified in the '901 registration are identical or closely related to the goods promoted and sold by Petitioner under its NATURE-GLO mark and to the goods identified in Petitioner's Registration.

17. Use of Registrant's NATURE'S GRILLING mark for Registrant's goods is likely to cause confusion or mistake, or to deceive consumers into believing erroneously that Registrant's goods come from the same source as, are related to, or are associated with the goods offered by Petitioner, or are authorized by, sponsored by, or otherwise connected with Petitioner. Any fault or defect found in Registrant's goods would reflect upon and injure the reputation that Petitioner has established in its NATURE-GLO mark and in the goods offered in connection therewith. Moreover, the use of the NATURE'S GRILLING mark allows Respondent to reap

the financial reputation-related reward associated with Petitioner's mark and misappropriate to Registrant goodwill that belongs to Petitioner. Petitioner believes it is being injured in the provision, sale, and distribution of Registrant's goods, and in the conduct of its business.

18. By registering two marks that consist of the wording "NATURE'S" and a disclaimed and descriptive second term, Registrant is trying to appropriate for itself the right to register trademarks prominently featuring the wording "NATURE'S" in connection with charcoal briquettes and other grilling and smoking products, in direct contravention of Petitioner's registration and common law rights to its NATURE-GLO mark.

19. Petitioner has not give Registrant permission, approval, or consent to use or register either of the NATURE'S MESQUITE and NATURE'S GRILLING marks.

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20. Registration of the NATURE'S MESQUITE and NATURE'S GRILLING marks is inconsistent with Petitioner's rights under Petitioner's NATURE-GLO registration and its common law rights in the NATURE-GLO mark and would be damaging to Petitioner.

WHEREFORE, Petitioner prays that Registrations 3,221,991 and 3,925,901 be cancelled.

This 1st day of March, 2011.

Respectfully submitted,

/N. Andrew Crain/

N. Andrew Crain

USPTO Registration No. 45,442

Charles S. Murray, Jr.

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Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Opposition has been served by first class mail, postage prepaid, this 1st day of March, 2011 upon Registrant at the following addresses:

Nature's Grilling Products, LLC
D/B/A: NRG International, LLC
10855 Dover Street, Suite 400
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/N. Andrew Crain/

N. Andrew Crain
Attorney for Petitioner,
Royal Oak Enterprises, LLC

01313235

EXHIBIT A

Int. Cl.: 4

Prior U.S. Cls.: 1, 6 and 15

United States Patent and Trademark Office

Amended

Reg. No. 1,450,298

Registered Aug. 4, 1987

OG Date Aug. 31, 2010

**TRADEMARK
PRINCIPAL REGISTER**

NATURE-GLO

ROYAL OAK ENTERPRISES, LLC (DE-
LAWARE LIMITED LIABILITY COM-
PANY)
1 ROYAL OAK AVENUE
ROSWELL, GA 30076

FOR: CHARCOAL BRIQUETS,] WOOD
BRIQUETS,] WOOD CHIPS, GRILL
WOOD AND FIRE STARTING FIBER-
BOARD, IN CLASS 4 (U.S. CLS. 1, 6
AND 15).

FIRST USE 1-0-1985; IN COMMERCE
2-0-1985.

SER. NO. 73-633,404, FILED 12-3-1986.



*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Aug. 31, 2010.*

David J. Kybas

Director of the United States Patent and Trademark Office